

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

NATIONAL BANK OF KUWAIT, S.A.K.P.,  
NEW YORK BRANCH,

Plaintiff,

-against-

BRADLEY PARKER,

Defendant.

24-cv-4324 (AS)

ORDER

ARUN SUBRAMANIAN, United States District Judge:

There seems to be confusion from both parties about the procedural posture of this case. To get things back on track, the Court will summarize where we are and where things should go from here.

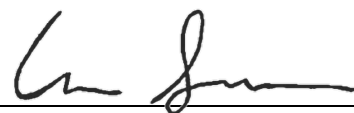
Plaintiff sued defendant in state court by serving him with a motion for summary judgment in lieu of a complaint under N.Y. C.P.L.R. § 3213. Defendant removed the suit to federal court and moved to dismiss the case, which the Court denied. ECF No. 10. Plaintiff then obtained a certificate of default against defendant, claiming that defendant has not filed any responsive pleading (even though he filed a motion to dismiss). ECF No. 18. Now defendant says that this Court should dismiss the suit because, he claims, the state court already did so. ECF No. 21. But the state court simply dismissed the suit without prejudice because defendant removed it to federal court. ECF No. 22.

Neither default nor dismissal is appropriate here. “[W]hen this case was removed to federal court, the regime of the Federal Rules replaced that of § 3213.” *UBS AG, London Branch v. Greka Integrated, Inc.*, 2022 WL 2297904, at \*2 (2d Cir. 2022) (citation omitted). “Thus, upon removal, the C.P.L.R. 3213 motion for summary judgment in lieu of complaint was converted to a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure.” *Id.* Accordingly, plaintiff should refile its motion for summary judgment and accompanying memorandum of law by Monday, October 28, 2024. Defendant should file his response by November 11, 2024, and plaintiff’s reply is due November 18, 2024.

SO ORDERED.

Dated: October 15, 2024

New York, New York



ARUN SUBRAMANIAN  
United States District Judge